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PRE-APPEAL BRIEF REQUEST FOR REVI	LIM3 (MAY 11 2007				
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I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mall	Application N	umber `	Filed		
in an envelope addressed to "Mail Stop Ar", Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]	10/88	April 1878864			
on May 2, 2007	First Named Inventor				
Signature	EDMOND HENG LIM				
	Art Unit		Examiner		
name RISTO A. RINNE, JR.	36	35	WUJCIAK,ALFREDJ		
Applicant requests review of the final rejection in the above-with this request.	identified ap				
This request is being filed with a notice of appeal.					
The review is requested for the reason(s) stated on the attac Note: No more than five (5) pages may be provided	ched sheet(s l.	;).	·		
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applicant/inventor.		170	$\mathcal{A}_{}$		
assignee of record of the entire interest.		•	Signature		
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)		RISTO Typed	A. RINNE, JR. or printed name		
attorney or agent of record. Registration number		415.4	457-6933		
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attorney or agent acting under 37 CFR 1.34.		1100	2 222		
Registration number if acting under 37 CFR 1.34		MIHY	Date		
NOTE: Signatures of all the inventors or assignees of record of the entire Submit multiple forms if more than one signature is required, see below*.	interest or their	representative(s)	are required.		

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

*Total of

forms are submitted.

IN THE UNITED STATES DEPARTMENT OF COMMERCE BEFORE THE PATENT AND TRADEMARK OFFICE



In re applicati	on of:	Lim, Edmond H	eng)	
Serial No:	10/826	5,830)	Group No.:3632

Examiner: Wujciak, Alfred J Filed: 04/16/2004 For: Paper Plate Beverage Holder

Commissioner of Patents and Trademarks

CERTIFICATE OF MAILING (37 CFR 1.8a)

I hereby certify that this paper, along with any paper referred to as being attached or enclosed, is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop PETITION, Commissioner for Patents, Alexandria, VA 22313-1450 on May 2, 2007.

Date: May 2, 2007

(Signature of person mailing paper) Reg. 37,055

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Risto A. Rinne, Jr. (Name of person mailing paper)

Hon. Commissioner of Patents and Trademarks

Sir:

In response to the Office Action mailed March 8, 2007, please consider the following in appeal of the dismissal decision and the basis thereof:

The petition to review the above-identified application was dismissed because the reply, it is asserted, was not an amendment that prima facie places the application in condition for allowance.

It is respectfully suggested that the corrected reply that was submitted with the petition to revive on July 11th, 2006 was not either the reply that was considered in making a determination regarding the petition to revive and that a determination of the



was improperly made because it raised new grounds that the applicant was previously not made aware of and therefore could not have possibly corrected.

This belief is based, in part, on the fact that certain of the reasons cited in the dismissal of the petition to revive are identical to those that were cited in a Notice of Non-Compliant Amendment that was mailed on April 3, 2006 with the exception of the comments appertaining to claim 21. Claim 21 is discussed hereinbelow. However, these defects had been corrected in the reply that was filed on July 11, 2006. The Notice of Non-Compliant Amendment was the Office's response to an "Amendment After Final" that was mailed on 12-23-2006. The defects in the Amendment After Final that was mailed on 12-23-2006 were corrected in the reply (i.e., a "Corrected Amendment After Final") that was submitted on July 11th, 2006 along with the petition to revive and therefore cannot possibly be proper basis for the dismissal of the petition to revive.

As relevant background information, a death in the immediate family on April 30, 2006 (a copy of the death certificate for Manuel Petrakis, father of my wife Stella Petrakis-Rinne, is enclosed) and the effects thereof resulted in a delay in the mailing of the response (i.e., the reply) to the Notice of Non-Compliant Amendment.

This delay occurred because I am a solo practitioner and because his death had significant impact on the surviving family. Consequently, the response to the notice of Non-Compliant Amendment was made at the first available opportunity, and was mailed on July 11, 2006. This response included a "Corrected Amendment After Final", a one-page letter of transmittal, a petition for revival of an application for patent abandoned unintentionally, and the required fee of \$750.00.

Specifically, the continuation of 4(e) that was provided with the dismissal states, "Other: Claims 11-12, and 14, "(previously amended)" should be changed to --(previously presented)-- and claim 21, "(re-presented)" should be changed to -(previously presented)-- for clarification." These are believed to have been corrected in the corrected amendment after final that was mailed along with the petition to revive on July 11, 2006. Therefore, this cannot be proper basis for dismissal if they were in fact corrected by the reply that accompanied the petition. At the very least it provides confusion and makes a proper response at this time by the applicant impossible to accomplish.

An additional reason was also cited in the dismissal sent March 8, 2007 regarding claim 21 that asserted that applicant failed to show marked up changes for claim 21 when it changed from a method claim to an apparatus claim using underline, bracket, or

strikethrough. This is believed to also be an incorrect basis for the dismissal. This is because the Office Action that was mailed on April 30, 2006 (i.e., The Notice of Non-Compliant Amendment) failed to make mention that any changes to claim 21 were required or were a basis of non-compliance. Accordingly, the applicant would certainly well-believe that the only required changes necessary to bring the Amendment After Final into condition of allowance were those that were specified in the notice of non-compliant amendment; specifically the changes to the claim identifiers.

Accordingly, the reply that was submitted on July 11, 2006 along with the petition for revival can only rightly be evaluated for compliance based on the content of the notice of non-compliant amendment that was mailed on April 30, 2007. It is improper to add new grounds at this time and then penalize the applicant for not having foresight to somehow anticipate and correct them. The applicant had no notice whatsoever provided by the USPTO to include marked up changes for claim 21 or that such changes to claim 21 were required to bring the Amendment After Final into compliance. This request was not part of the original requirement to bring the amendment after final into compliance. Therefore, it could not possibly be included as part of the reply that was a bona fide effort to correct the defects that were cited in the Notice of Non-Compliant Amendment.

Upon the Examiner's later (subsequent) review and determination that further changes to claim 21 were required to the Amendment After Final, these changes should have been communicated to the applicant by way of a second Notice of Non-Compliant Amendment. In other words, it is respectfully suggested and requested that the petition for revival should have been allowed as proper and that a subsequent office action should be mailed to the applicant regarding the newly found grounds of non-compliance for claim 21. Otherwise, the applicant is being penalized for making a bona fide effort complying with all of the stated requirements of an Office Action (i.e., the notice of non-compliant amendment) and subsequent to his compliance, not being granted a resumption of the normal course of prosecution.

Please grant the petition to revive the application.

Respectfully submitted:

Risto A. Rinne, Jr.

Reg. No. 37,055

2173 East Francisco Blvd. Suite E

San Rafael, CA 94901

Telephone 415 457-6933

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CITY AND COUNTY OF SAN FRANCISCO

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